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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,178	06/04/2001	Hiromu Ueshima	100341-00009	9626

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EXAMINER

ASHBURN, STEVEN L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 09/15/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,178

Applicant(s)

UESHIMA ET AL.

ch

Examiner

Steven Ashburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 9 objected to because it contains a typographical error. In particular, claim 2 states “careen” vice “screen”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tosaki et al., U.S. Patent 6,312,335 B1 (Nov. 6, 2001) in view of Uemura et al., U.S. Patent 4,521,020 (Jun. 4, 1985).

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Tosaki* in view of *Uemura*, as applied to claim 1 above, in further view of Goschy et al., U.S. Patent 6,545,661 B1 (Apr. 8, 2003).

The fishing game system suggested by the combination of *Tosaki* in view of *Uemura* describes all the features of the instant claims except a light spot detecting means for detecting a light spot of a

Art Unit: 3714

scanning display and determining the direction of the cast on the game screen according to the output of the light spot detecting means.

Goschy discloses an analogous apparatus for controlling a video game wherein the game is controlled in response to the output of an accelerometer and light spot sensor. *See col. 1:55-2:9*. The system includes a game controller, a video display and a hand-held control unit. *See id.* The control unit houses an accelerometer that senses the tilt of the control unit with respect to an axis. *See id.* The accelerometer produces an acceleration signal indicating the tilt of the control unit with respect to the axis. The game controller processes the acceleration signal to control the movement of a game character on the video display. *See id.* Additionally, the control unit includes a light sensor that detects one or more light pixels from the video display and produces a detection signal to the game controller. *See id.* The game controller determines from the detection signal the light pixels detected from the video display. *See id.* *Goschy* teaches the system enhances the game by allowing a player to input direction commands by tilting the controller and then select a target merely by pressing a button. *See col. 1:46-52*. The reference suggests the system is particularly well suited for video games where guns, swords, bats, clubs, rackets, gloves, etc. are used to manipulate characters on a video display. *See col. 2:5-8*. Hence, *Goschy* generally suggests employing the system in games where the controller is swung.

In view of *Goschy*, it would have been obvious to an artisan at the time of the invention to modify the fishing game apparatus suggested by the combination of *Tosaki* in view of *Uemura*, wherein a simulated casting rod is swung at a screen, to add the feature of a light spot detecting means for detecting a light spot of a scanning display and determining the direction of the cast on the game screen according to the output of the light spot detecting means. As suggested by *Goschy*, the modification would enhance a video game where a controller is swung to control the game by allowing a player to input direction commands by tilting the controller and then select a target merely by pressing a button. *See col. 1:46-52*.

In regards to claim 10: The fishing game system suggested by the combination of *Tosaki* in view of *Uemura* describes all the features of the instant claim except the acceleration sensor including a piezoelectric buzzer element and signal output means from outputting an acceleration signal correlated to the buzzer. Regardless, acceleration sensors having piezoelectric buzzers are well known and commercially available. It would have been obvious to an artisan at the time of the invention to modify the fishing game system suggested by the combination of *Tosaki* in view of *Uemura*, wherein an accelerometer is employed to measure the movement of a simulated fishing rod, to employ an accelerometer including a piezoelectric buzzer element wherein the signal output from the buzzer correlates to an acceleration signal because the modification is a substitutable equivalent known for the same purpose of measuring acceleration.

In regards to claim 11: *Tosaki* additionally describes a rotation amount associated signal generating means generates numbers of pulse signals and the second input means includes a mouse-type counter that counts the pulse signals. *See fig. 2a(26), 2b(101); 6:61-7:3.*

In regards to claim 12: *Tosaki* additionally teaches the casting rod includes a vibrator that is driven by the game processor when a fish bite occurs in the process of the game. *See col. 3:66-4:6.*

Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Tosaki* in view of *Uemura*, as applied to claim 7 above, in further view of Dornbusch, U.S. Patent 5,232,223 (Aug. 3, 1993).

The fishing game system suggested by the combination of *Tosaki* in view of *Uemura* describes all the features of the instant claim except a tension key operated by a game player to control the tension of

Art Unit: 3714

the fishing line wherein the game processor determines that a player fails to catch a fish when a value of the tension reaches a predetermined value.

Tosaki discloses a game system having a controller simulating the “real-life” mechanics of fishing. *See col. 2:58-3:7*. In “real-life” it is known for fishing rods to include a tension button to control the tension of a fishing line. The button allows a fisherman to release the tension on the line and thereby avoid losing a hooked fish by having the line break when the tension on the line exceeds the line’s predetermined capacity. Hence, one of ordinary skill in the art would hold knowledge that fishing rods include a tension key to control the tension of the fishing line wherein a user may fail to catch a fish if tension reaches a predetermined value

Dornbusch discloses an analogous simulated fishing rod that is responsive to the movements of a game player during game play. *See col. 1:5-17*. The electronic game controller responds to actual motion which mimics real motion typically occurring during the performance of a corresponding real event being simulated by the game play. *See id.* The controller resembles an actual rod and reel and permits the game player to interact with the controller and the game as if the game player were actually fishing. *See id.* In particular, the controller includes a tension key operated by a game player to control the tension of the fishing line in the game wherein the game processor determines that a player fails to catch a fish when a value of the tension reaches a predetermined value. *See col. 11:1-10*.

In view of *Dornbusch*, it would have been obvious to an artisan at the time of the invention to modify the fishing game system suggested by the combination of *Tosaki* in view of *Uemura*, wherein the controller simulates actual fishing mechanics, to add the feature of a tension key operated by a game player to control the tension of the fishing line in the game wherein the game processor determines that a player fails to catch a fish when a value of the tension reaches a predetermined value. As suggested by *Dornbusch*, the modification would enhance the fishing game by permitting the game player to interact with the controller and the game as if the player were actually fishing. *See col. 1:13-16*.

Allowable Subject Matter

Based on newly identified prior art, the allowability of claim 2 is withdrawn.

Response to Arguments

Applicant's arguments filed June 30, 2003 have been fully considered but they are not persuasive.

The applicant contends that claims 1 and 3-6 distinguishes over the prior art because the combination of *Tosaki* and *Uemura* does not suggest the feature of a game processor provided in the casting rod to determine the casting distance as required by claim 1. The examiner respectfully disagrees.

First, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the applicant's argument is unpersuasive because it fails to consider the suggestions of *Uemura*.

Second, the standard of patentability is what the prior art, taken as a whole, suggests to an artisan at the time of the invention. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). The question is not only what the references expressly teach, but what they would collectively suggest to one of ordinary skill in the art. *In re Simon*, 461 F.2d 1387, 1390, 174 USPQ 114, 116 (CCPA 1972). Here, *Tosaki* discloses a fishing game system wherein the input device is a simulated casting rod. The rod includes means for detecting physical movement of the device as a whole and converting the physical quantities to a detection signal that is output to the game process. See *abstract*. A game processor for determining casting distance is provided external to the simulated fishing rod. See *fig. 1(2)*. *Uemura* discloses an analogous gaming system wherein the player-controls, processing and input/output are housed within a single housing connected that connects directly to a television in order to provide an improved game machine with a simple structure and reduced cost. See *fig. 1; col. 4:46-50*,

Art Unit: 3714

col. 6:5-45. Hence, when the prior art is taken as a whole at the time of the invention, it collectively suggests a fishing game system having a casting rod incorporating a game processor to determine the casting distance.

Third, it is not patentably distinguishable to modify a device to make it movable unless there a new or unexpected results. See *In re Lindberg*, 194 F.2d 732, 93 USPQ 23 (CCPA 1952). In this case, it would have been obvious to combine the controller and game processor into a portable unit

Fourth, it is not patentably distinguishable to integrate a plurality of parts into a single component. See *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965); See also, *Schenck v. Norton Corp.* 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). In this case, it would have been obvious to integrate the game controller and game processor into a single unit.

Consequently, for all the reasons given above, the rejection is maintained.

Prior Art, Not Relied On

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure: Tabota et al., U.S. Patent 5,481,915 (Jan. 9, 1996) discloses an acceleration sensor having a piezoelectric buzzer element that outputs a signal proportional to acceleration.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications. Any inquiry of a general

Art Unit: 3714

nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.

S.A.
September 10, 2003

A handwritten signature in black ink, appearing to be 'MS' followed by a long horizontal flourish.

MARK SAGER
PRIMARY EXAMINER